A

MUHAMAD TAUFIK KAMALUDDIN

lwn.

PP

B

MAHKAMAH TINGGI MALAYA, JOHOR BAHRU
AZAHAR MOHAMED H
[RAYUAN JENAYAH NO: 42-16-2006]
7 MAC 2007

C ***PROSEDUR JENAYAH:*** *Hukuman - Rayuan - Rayuan untuk mengurangkan hukuman penjara dan sebatan rotan - Faktor kepentingan awam - Mahkamah memberi pertimbangan mengenai kekerapan kejadian kes samun - Sama ada mahkamah berhak memberi pengiktirafan kehakiman (judicial notice) - Sama ada mahkamah patut mengutamakan*
D *faktor deteren dalam menjatuhkan hukuman - Sama ada hukuman dijatuhkan wajar - Sama ada hukuman dikekalkan - Kanun Keseksaan, s. 392*

E Perayu dan dua orang lain telah mengaku salah di hadapan hakim Mahkamah Sesyen terhadap satu pertuduhan pilihan bagi kesalahan samun terhadap mangsa dan oleh yang demikian telah melakukan kesalahan di bawah s. 392 Kanun Keseksaan. Fakta yang dibentangkan oleh pihak pendakwaraya dan diakui benar oleh perayu sendiri menunjukkan bahawa dia dan dua orang yang lain
F telah melakukan samun dengan memasuki rumah pengadu pada jam 1.45 pagi pada 25 November 2005 dengan bersenjatakan pisau dan skeru driver. Pengadu dan isterinya telah diikat dengan menggunakan wayer. Kemudiannya perayu dan dua orang lain telah menggeledah barang-barang dalam rumah pengadu dan
G mengambil barang-barang termasuk telefon bimbit, kamera, jam tangan dan rantai leher yang dianggarkan bernilai RM22,340. Hakim Mahkamah Sesyen telah menjatuhkan hukuman penjara 10 tahun setiap seorang berkuatkuasa daripada tarikh ditangkap serta sebatan sebanyak lapan kali terhadap perayu dan dua orang yang
H lain bagi kesalahan tersebut. Perayu tidak berpuashati dengan hukuman yang dijatuhkan dan memohon agar mahkamah ini mengurangkan hukuman penjara dan sebatan rotan yang dikenakan itu.

I

Diputuskan (menolak rayuan perayu):

(1) Sebelum menjatuhkan hukuman, hakim Mahkamah Sesyen telah mempertimbangkan, antara lain, faktor kepentingan awam. Ia adalah faktor utama dalam penghukuman untuk memberi satu pengajaran kepada tertuduh dan perlindungan kepada masyarakat. Hakim Mahkamah Sesyen telah memberi pertimbangan tentang 'kekerapan kejadian kes-kes samun di kawasan Johor Bahru dan sekelilingnya.' Pendekatan yang sedemikian tidak silap atau menyalahi mana-mana prinsip undang-undang. Malahan mahkamah berhak memberi pengiktirafan kehakiman (judicial notice) tentang kekerapan atau kelaziman berlakunya sesuatu kesalahan di kalangan masyarakat setempat sewaktu menghukum pesalah. Mahkamah berhak memberi pengiktirafan sedemikian tentang apa yang diketahui umum. Kekerapan ataupun kekerapan berlakunya sesuatu jenayah memerlukan mahkamah sensitive kepada keadaan ini dan memandang kesalahan sedemikian dengan serius dan mengutamakan faktor deteren dalam menjatuhkan hukuman ke atas pesalah. (perenggan 8)

(2) Hakim Mahkamah Sesyen telah mengambil semua fakta mitigasi yang relevan yang telah dikemukakan oleh perayu. Beliau juga telah mengambilkira bahawa kesalahan yang perayu lakukan adalah serius, dan oleh yang demikian kepentingan awam menghendaki supaya hukuman yang setimpal dikenakan kepada perayu. Hakim Mahkamah Sesyen secara teliti mengambilkira segala hal keadaan sebelum menjatuhkan hukuman tersebut sejajar dan berlandaskan dengan prinsip penghakiman yang telah digariskan. (perenggan 10 & 11)

(3) Hukuman yang dijatuhkan oleh Hakim Mahkamah Sesyen adalah wajar dan tidak silap atau menyalahi mana-mana prinsip undang-undang. Mahkamah ini tidak mempunyai sebab untuk campur tangan atau mengganggu perjalanan budibicara yang terletak hak kepada hakim yang berkenaan. Dengan hal yang demikian, hukuman tersebut dikekalkan dan disahkan. (perenggan 12)

Kes-kes yang dirujuk:

Abu Bakar Alif v. R [1953] MLJ 19 ***(dirujuk)***
Bhandulananda Jayatilake v. PP [1982] 1 MLJ 83 ***(dirujuk)***
Dato' Seri Anwar Ibrahim lwn. PP [2002] 3 CLJ 457 FC ***(dirujuk)***
Goh Chong Wee v. PP Federal Territory (Criminal Application No CR 52-60-1987) (unreported) ***(dirujuk)***

A *Lee Chow Meng v. PP [1976] 1 MLJ 287* ***(dirujuk)***
PP v. Lee Tak Keong [1989] 1 MLJ 307 ***(dirujuk)***
PP v. Mustanina Daing Sinring & Anor (Criminal Application No 51-125 of 1987) (unreported) ***(dirujuk)***
Rex v. Kenneth John Ball [1951] 35 Cr App R 164 ***(dirujuk)***
B *Yong Pak Yong v. PP [1959] MLJ 176* ***(dirujuk)***

Appellant in person
For the respondent - Ahmad Akram Gharib DPP

Reported by Suhainah Wahiduddin

C

PENGHAKIMAN

Azahar Mohamed H:

D **[1]** Perayu, Muhamad Taufik dan dua orang yang lain telah mengaku salah di hadapan Hakim Mahkamah Sesyen Kota Tinggi terhadap satu pertuduhan pilihan bagi kesalahan samun yang berbunyi seperti berikut:

E Bahawa kamu bersama-sama pada 25/11/2005 lebih kurang jam 1.45 pagi di rumah no. 32, Kg. Johor Lama, Telok Sengat, di dalam Daerah Kota Tinggi, di dalam Negeri Johor, di dapati telah melakukan samun terhadap Mohd. Aerin bin Mohd. Sarif, KPT: 751212-01-5915 dengan mengambil sebuah perakam video jenis Sony, (1) kamera jenis Olympus, barangan kemas, rokok pelbagai
F jenis dan wang tunai yang jumlahnya bernilai lebih kurang RM22,340.00. Oleh yang demikian, kamu telah melakukan satu kesalahan di bawah Sek. 392 Kanun Keseksaan (KK) dan boleh dihukum di bawah seksyen yang sama.

G **[2]** Fakta yang dibentangkan oleh pihak pendakwaraya dan diakui benar oleh perayu sendiri menunjukkan bahawa dia dan dua orang yang lain telah melakukan samun dengan memasuki rumah pengadu pada jam 1.45 pagi, 25 November 2005 dengan bersenjatakan pisau dan skeru driver. Pengadu dan isterinya telah
H diikat dengan menggunakan wayar. Kemudiannya perayu dan dua orang yang lain telah menggeledah barang-barang dalam rumah pengadu dan mengambil barang-barang termasuk telefon bimbit, kamera, jam tangan dan rantai leher yang dianggarkan bernilai RM22,340.

I

[3] Hakim Mahkamah Sesyen telah menjatuhkan hukuman penjara 10 tahun setiap seorang berkuatkuasa daripada tarikh ditangkap serta sebatan sebanyak lapan kali terhadap perayu dan dua orang yang lain bagi kesalahan tersebut. Perayu tidak berpuashati dengan hukuman yang dijatuhkan oleh Hakim Mahkamah Sesyen dan memohon agar mahkamah ini mengurangkan hukuman penjara dan sebatan rotan yang dikenakan itu.

[4] Berhubung dengan hukuman, undang-undang sudah jelas bahawa mahkamah yang mendengar rayuan tidak seharusnya campur tangan dengan hukuman yang dikenakan oleh hakim perbicaraan dan selalunya tidak akan menukar hukuman melainkan ianya berpuashati bahawa hukuman yang di jatuhkan oleh hakim berkenaan itu ternyata amat tidak memadai atau mencukupi atau keterlaluan atau tidak sah ataupun tidak merupakan hukuman yang wajar memandangkan semua fakta yang didedahkan, atau bahawa mahkamah tersebut jelas tersalah di dalam memakai prinsip yang betul dalam penilaian hukuman. Prinsip undang-undang yang menentukan kawalan dan semakan keputusan berkaitan dengan hukuman telah digariskan dengan jelas dalam kes *Bhandulananda Jayatilake v. PP* [1982] 1 MLJ 83 di mana Raja Azlan Shah, Ag. KHN (sebagaimana kedudukan baginda pada ketika itu) yang menyampaikan penghakiman Mahkamah Persekutuan pada halaman 84 telah berkata:

> Is the sentence harsh and manifestly excessive? We would paraphrase it in this way. As this is an appeal against the exercise by the learned judge of a discretion vested in him, is the sentence so far outside the normal discretionary limits as to enable this court to say that its imposition must have involved an error of law of some description? I have had occasion to say elsewhere, that the very concept of judicial discretion involves a right to choose between more than one possible course of action upon which there is room for reasonable people to hold differing opinions as to which is to be preferred. That is quite inevitable. Human nature being what it is, different judges applying the same principles at the same time in the same country to similar facts may sometimes reach different conclusions (see *Jamieson v. Jamieson* [1952] AC 525). It is for that reason that some very conscientious judges have thought it is their duty to visit particular crimes with exemplary sentences, whilst others, equally conscientious, have thought it their duty to view the same crimes with leniency. Therefore sentences do vary in apparently similar circumstances with the habit of mind of the particular judge. It is

A for that reason also that this court had said it again and again it will not normally interfere with sentences, and the possibility or even the probability, that another court would have imposed a different sentence is not sufficient *per se* to warrant this court's interference.

B **[5]** Lihat juga keputusan Mahkamah Persekutuan dalam kes *Dato' Seri Anwar bin Ibrahim lwn. Public Prosecutor* [2002] 3 CLJ 457.

[6] Dalam penghakimannya Hakim Mahkamah Sesyen telah C menyatakan seperti yang berikut:

> Saya telah menjatuhkan hukuman penjara selama 10 tahun dari tarikh tangkap dan 8 kali sebatan bagi tiap-tiap OKT. Ketiga-tiga OKT merayu agar hukuman penjara dan sebatan rotan dikurangkan.
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> D
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> Mengikut fakta kes ketiga-tiga OKT telah melakukan samun dengan memasuki rumah pengadu pada jam 1.45 pagi dengan bersenjatakan pisau dan skeru driver. Pengadu dan isterinya telah diikat dengan menggunakan wayer. Ketiga-tiga OKT telah menggeledah barang-barang dalam rumah. Barang-barang yang E hilang dianggarkan kerugian lebih kurang RM22,340.00 termasuk handphone, kamera, jam tangan, rantai leher, cincin, rokok dan wang tunai.
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> Pada 25/11/2005, ketiga-tiga OKT telah ditangkap dan barang-F barang yang dirampas dari ketiga-tiga OKT telah dikenalpasti oleh pengadu bahawa barang-barang tersebut adalah kepunyaan beliau.
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> Di bawah Sek. 392 Kanun Keseksaan:
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> > Whoever commits robbery shall be punished with G imprisonment for a term which may extend to ten years and shall also be liable to fine; and if the robbery be committed between sunset and sunrise the imprisonment may be extended to fourteen years, and he shall also be liable to fine or to whipping.
>
> H Memandangkan tempoh penjara yang maksimum adalah 14 tahun di bawah Sek. 392 KK dan maximum sebatan adalah 24 mengikut Sek. 288 CPC, saya berpendapat hukuman yang dikenakan terhadap ketiga-tiga OKT adalah setimpal dengan kesalahan mereka.
>
> I Saya telah menjatuhkan hukuman penjara 10 tahun dan sebatan sebanyak 8 kali bagi setiap seorang OKT, memandangkan saya percaya ada kegunaan kekerasaan oleh ketiga-tiga OKT semasa melakukan kesalahan tersebut.

Saya juga telah mempertimbangkan pengakuan salah mereka sebagai salah satu faktor mitigasi. Selain daripada itu, aspek-aspek dalam prinsip menjatuhkan hukuman termasuk kepentingan awam, pencegahan (deterrence), kekerapan kejadian kes-kes samun di kawasan Johor Bahru dan sekelilingnya.

[7] Dalam kes sekarang, saya perhatikan sebelum menjatuhkan hukuman ke atas perayu, hakim Mahkamah Sesyen telah mempertimbangkan, antara lain, faktor kepentingan awam. Tentang faktor kepentingan awam tidak boleh di pertikaikan lagi bahawa ianya adalah faktor utama dalam penghukuman untuk memberi satu pengajaran kepada tertuduh dan perlindungan kepada masyarakat sebagaimana yang diputuskan dalam kes *Rex v. Kenneth John Ball* [1951] 35 Cr App R 164 yang di rujuk oleh Spenser Wilkinson H dalam kes *Abu Bakar bin Alif v. R* [1953] MLJ 19 sepertimana yang berikut:

In deciding the appropriate sentence a court should always be guided by certain considerations. The first and foremost is the public interest. The criminal law is publicly enforced, not only with the object of punishing crime, but also in the hope of preventing it. A proper sentence, passed in public, serves the public interest in two ways. It may deter others who might be tempted to try crime as seeming to offer easy money on the supposition, that if the offender is caught and brought to justice, the punishment will be negligible. Such a sentence may also deter the particular criminal from committing a crime again, or induce him to turn from a criminal to an honest lift. The public interest is indeed served, and best served, if the offender is induced to turn from criminal ways to honest living. Our law does not, therefore, fix the sentence for a particular crime, but fixes a maximum sentence and leaves it to the court to decide what is, within that maximum, the appropriate sentence for each criminal in the particular circumstances of each case. Not only in regard to each crime, but in regard to each criminal, the court has the right and the duty to decide whether to be lenient or severe.

[8] Saya juga perhatikan dalam alasan penghakimannya hakim Mahkamah Sesyen telah memberi pertimbangan tentang "kekerapan kejadian kes-kes samun di kawasan Johor Bahru dan sekelilingnya." Pada hemat saya pendekatan yang sedemikian tidak silap atau menyalahi mana-mana prinsip undang-undang. Malahan mahkamah berhak memberi pengiktirafan kehakiman (judicial notice) tentang kekerapan atau kelaziman berlakunya sesuatu kesalahan dikalangan masyarakat setempat sewaktu menghukum pesalah. Mahkamah berhak untuk memberi pengiktirafan sedemikian tentang apa yang

diketahui umum. Kelaziman ataupun kekerapan berlakunya sesuatu jenayah memerlukan mahkamah sensitif kepada keadaan ini dan memandang kesalahan sedemikian dengan serius dan mengutamakan faktor deteren dalam menjatuhkan hukuman ke atas pesalah. Dalam kes *Yong Pak Yong v. Public Prosecutor* [1959] MLJ 176 di halaman 177-178, Good H berkata:

> In dealing with a matter of sentence as distinct from considering whether a person ought to be convicted or not of the offence, I think that the Courts are entitled to take judicial notice of what is notorious, of what everybody knows. Indeed, I came across recently in an entirely different connection a case in which the Privy Council took judicial notice of the existence of a particular class of contracts in India. That was in *Gyanagerji*'s case [1924] 51 IA 305; AIR [1924] PC 226; ILR 47 Mad 279; 27 Bom LR 4; 29 CWN 246. Now, how had their Lordships of the Privy Council acquired the knowledge of that class of contracts? Clearly, from having come across them so often in cases coming before their Lordships' Board on appeal. Similarly, we members of the judiciary sitting in these Courts cannot avoid acquiring a very considerable knowledge, from the cases that come before us, of the activities and the prevalence of secret societies and, in particular, in this town of Ipoh. Every day, or almost every day, week after week, and month after month, I open my morning paper and this is the sort of thing I read (I know it would not be evidence in the case when the accused was being prosecuted for the offence but it is a sample of what is common knowledge): (His Lordship reads three items from the Straits Times of 16 June).
>
> Singapore. Monday.
>
> A Singapore cook who 'never had time' for his 19-year-old son, wept today as he gazed at the boy's battered body in the General Hospital mortuary.
>
> His son was Tim Chiam, 19, on police records as a member of the notorious 24 secret society group, whose mutilated body was found in a lane off Kim Keat Avenue last night.
>
> Thirteen rival gangsters had pounced on him as he strolled towards a football field shortly after he had taken his dinner. An axe, aerated water bottles and wooden clubs were used in the attack, which is believed to be a continuation of the blood feud between the 08 and 24 groups.

Ipoh. Monday.

Police last night moved against the powerful secret societies operating in Ipoh with a big round-up of suspected gangsters all over town.

Eighteen persons were detained.

The crackdown follows what is believed to be a gang war between two powerful groups who control the extortion racket in Ipoh.

Lined up on one side is the Pak Sin, with its stronghold in Guntong New Village. Opposing them are the Seong Foo Sun and Loong Pak Fu who operate in Pasir Pinji New Village and the old town area.

The current gang war is believed to have been touched off by the Pak Sin when a rival was slashed in a clash in Leech Street on Tuesday night.

The "Pak Fu " is the society which the appellant in this case told the victim he belonged to. I turn over the page.

Kuala Lumpur. Monday.

Thirty-nine tappers arrived here yesterday from Kuala Kangsar to see the centenary celebration.

When they left all were footsore and weary. But ten were more sore than the rest. They had been beaten up by a gang of between ten and 20 men outside Bukit Bintang Park.

And so it goes on, and almost every day of the week we read of gangs of young thugs entering private dwellings, shops, coffee houses and so forth and inflicting very severe injuries upon their victims.

Now, how does that connect with what I have just said about a class of cases in which although no violence is used violence is undoubtedly involved? Because it is purely fortuitous that in a case of this kind no violence is used. The threat itself is sufficient. These gangsters have gained the upper hand over law abiding citizens who are so terrified of them that they do not dare to resist their demands. We all know perfectly well what would happen to any member of the public who refused to play the game according to the secret society rules. We read day after day of the finding of arsenals of weapons – exceedingly dangerous and often lethal weapons – belonging to these gangsters. They have only got to go into a shop and demand a sum of money which

A is a multiple of three, like RM36 or RM108, and the implied threat is sufficient because those are the numbers which are used by these secret societies in their extortion demands: and naturally no actual violence or brutality is used for the simple reason that the victim of the demand is not going to run the risk, for the sake of a few dollars, of having himself carved up with parangs or battered with bicycle chains. In that class of cases, then, as it appears to me, the thug who has not had occasion to implement his threat of violence deserves corporal punishment just as much as if he had inflicted it.

For these reasons, the appeal against sentence is dismissed.

[9] Kes *Lee Chow Meng v. PP* [1976] 1 MLJ 287 merupakan panduan yang amat baik mengenai isu pengiktirafan kehakiman (judicial notice). Dalam kes tersebut Abdul Hamid H (YA pada masa itu) telah bersetuju bahawa mahkamah telah bertindak dengan betul apabila mengambilkira kekerapan kesalahan rompak bersenjata apabila menghukum pesalah. Di halaman 288 hakim yang arif itu berkata:

In my judgment there is absolutely no merit in this appeal. It is evident from the learned president's grounds of judgment that she took into account two main factors in considering the appropriate sentences to be imposed. In the first place, the learned president took the view that it was in the public interest that deterrent sentences be imposed. In the court below the prosecuting officer submitted that there were 677 robberies within a period of four months in Kuala Lumpur alone and half of them were armed robberies. The learned president evidently took this fact into account. It is true that the learned president was somewhat influenced by this fact. To my mind it is a matter of common knowledge and a notorious fact that there have been of late an increase in armed robberies. The learned president, I think, acted correctly when she took this fact into account and there is therefore absolutely no valid ground to say that she had erred in law.

What matters constitute common and general knowledge may be gathered from *Sarkar on Evidence*, 12th edn, where the learned author, speaking of common knowledge, at page 575, said:

The matter of which a court will take judicial notice must be a subject of common and general knowledge. In other words, judicial knowledge of facts is measured by general knowledge of the same facts. A fact is said to be generally recognised or known when its existence or operation is

> accepted by the public without qualification or contention. The test is whether sufficient notoriety attaches to the fact involved as to make it proper to assume its existence without proof.

In the light of the passage cited it is clear that the court may properly ask itself this question: is it not a fact well recognised that in Kuala Lumpur there has been of late, an increase in the commission of offences involving firearms? We are not concerned with absolute acceptance of the existence of certain knowledge. The rule of evidence speaks of general recognition and not total recognition in the sense that there is a general acceptance without qualification or contention as opposed to total acceptance.

Sarkar on the same page has something to say concerning the notorious facts:

> Judicial notice is taken of various facts which are familiar to any judicial tribunal by their universal notoriety or regular recurrence in the ordinary course of nature or business. As judges must bring to the consideration of questions they have to decide their knowledge of the common affairs of life, it is not necessary on the trial of an action to give formal evidence of matters with which men of ordinary intelligence are acquainted ...

Matters which the court may take judicial notice are far from exhaustive. Courts have even taken judicial notice that streets in London are crowded and dangerous – (*Dennis v. White* [1916] 2 KB 1 at p 6); and of world-wide economic depression (*Ram Tarak v. Selgram* [1944] AC 153).

In this connection let me also refer to the case cited by Encik TS Sambanthamurthi (*Yang Pak Yong v. Public Prosecutor* [1959] MLJ 176) where Good (as he then was) said at page 177:

> In dealing with a matter of sentence as distinct from considering whether a person ought to be convicted or not of the offence. I think that the courts are entitled to take judicial notice of what is notorious, of what everybody knows. Indeed, I came across recently in an entirely different connection a case in which the Privy Council took judicial notice of the existence of a particular class of contracts in India.

A Further on His Lordship said:

> Similarly we members of the judiciary sitting in these courts cannot avoid acquiring a very considerable knowledge, from the cases that come before us, of the activities and the prevalence of secret societies and, in particular, in this town of Ipoh.
>
> Similarly I would say that it is common knowledge that, of late, commission of offences involving fire-arms has been prevalent in Kuala Lumpur and I think the court is entitled to take judicial notice of that fact.

[10] Berbalik kepada kes di hadapan saya, samada hukuman yang dijatuhkan oleh hakim Mahkamah Sesyen itu berlebihan atau tidak mestilah disandarkan pada semua fakta yang dikemukakan semasa hakim yang berkenaan menjalankan budibicaranya sendiri. Setelah saya meneliti alasan penghakiman hakim Mahkamah Sesyen, saya merasakan bahawa beliau telah mengambil semua fakta mitigasi yang relevan yang telah dikemukakan oleh perayu. Beliau juga telah mengambil kira bahawa kesalahan yang perayu lakukan adalah serius, dan oleh yang demikian kepentingan awam menghendaki supaya hukuman yang setimpal dikenakan kepada perayu. Dalam hubungan ini saya merujuk kes *PP v. Lee Tak Keong* [1989] 1 MLJ 307 di mana Hakim Zakaria Yatim (YA pada ketika itu) mengambil kira kekerapan berlakunya kesalahan merompak dan telah mengutamakan kepentingan awam. Inilah apa yang dikatakan oleh hakim yang arif itu yang mana dengan hormatnya saya bersetuju sepenuhnya, di halaman 307-308 seperti yang berikut:

> The offence of robbery is rampant today and in most cases dangerous weapons are used. In some cases the victims of the robberies sustain injuries: see *Goh Chong Wee v. PP* Federal Territory Criminal Application No CR 52-60-1987 (unreported) (refd) and *PP v. Mustanina bin Daing Sinring and Anor* Criminal Application No 51-125 of 1987 (unreported) (refd). In cases of robbery the court must take into consideration the element of public interest. This means that the court must impose a deterrent sentence not only to deter the respondent from committing the same offence again but to deter others from committing the same type of crime. The court is aware that in the present case no dangerous weapons were used and the complainant and his friend were not injured. But the court must not overlook the fact that there were five of them who surrounded the complainant and his friend and committed the robbery. If the court does not impose a

deterrent sentence the respondent and his four other friends may commit similar offences and they may even use dangerous weapons and inflict injuries on their victims.

I must add that in imposing sentence in this case, the court must also consider society's abhorrence of this type of crime.

[11] Bagi kes di hadapan saya ini kepentingan awam juga menuntut pertimbangan yang sedemikian memandangkan kekerapan berlakunya kesalahan merompak dan oleh itu tujuan deteren perlu ditunaikan oleh mahkamah dalam menjatuhkan hukuman. Dalam kes ini hakim Mahkamah Sesyen telah menitikberatkan kepentingan awam sebagai satu prinsip yang terpakai. Saya bersetuju dengan pendekatan seperti itu. Adalah jelas pada hemat saya bahawa hakim Mahkamah Sesyen secara teliti mengambil kira segala hal keadaan sebelum menjatuhkan hukuman tersebut sejajar dan berlandaskan dengan prinsip penghakiman yang telah digariskan.

[12] Pada hemat saya hukuman yang dijatuhkan oleh hakim Mahkamah Sesyen adalah wajar dan tidak silap atau menyalahi mana-mana prinsip undang-undang. Saya tidak mempunyai sebab untuk campur tangan atau mengganggu perjalanan budibicara yang terletak hak kepada hakim yang berkenaan. Dengan hal yang demikian, hukuman tersebut dikekalkan dan disahkan. Saya menolak rayuan perayu terhadap hukuman tersebut.